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SUBJECT: CONTINUED WINDOW OF OPPORTUNITY FOR INFLUENCING EU
BIOFUELS POLICY

¶1. (SBU) EU Commission officials explained to officials from EPA, State/OES, USTR, and USEU that the recently passed Directive on the use of renewable energy (the Renewables Directive) left open several issues related to biofuels methodology and criteria, which the Commission is required to close beginning in the coming months. (See Department septel for technical details on the meetings.) As the first methodologies and calculations are due from the Commission in September, what will likely be the last window for the U.S. to engage the EU on compatible biofuels criteria and methodology is rapidly closing. The Commission is eager to discuss calculations and methodology with USG technical experts to compare current efforts and possibly to learn from U.S. experience. USEU therefore recommends that Washington, through the interagency working group, identify a common USG position enabling our technical experts to coordinate with the Commission as soon as possible to identify possible divergences in our respective methodologies. As our regulatory efforts on life-cycle greenhouse gas (GHG) emissions from biofuels are a year ahead of that of the Commission, we have an opportunity to influence the EU process. We see this as an effort that could lead to an outcome beneficial to the U.S. and our effort to create a global biofuels market.

¶2. (SBU) When the EU Parliament and Council last December agreed on final text for the Renewables Directive, they left several technical holes in the legislation for the Commission to resolve. The most notable revolve around the life-cycle GHG calculation methodology. The existing EU legislation and associated "default values" for various biofuels remain incomplete, with both direct and indirect land use change left for the Commission to address. Similarly, the Energy Independence and Security Act (EISA) of 2007 required EPA to address both direct and indirect land use change. Though the Commission has been tasked with developing methodologies to take into account both of these impacts, there are internal divisions within the Commission—notably between DGs Energy and Transport (TREN) and Environment. DG Environment fought most strongly for the incorporation of indirect land use change, while DG TREN has opposed it from the beginning. DG ENV was quite candid in their frustration with DG TREN and asserted that specific lead on land use restrictions and reporting measures are not clearly determined. Since the two DGs share the lead on the calculation, coordination with each should be a part of our engagement strategy.

¶3. (SBU) Officials from DG TREN, DG ENV, and the Joint Research Center (JRC), have emphasized the value of collaboration with the U.S. in developing biofuels emissions methodologies and sustainability requirements. DG TREN in particular believes that both the U.S. and the Commission are pushing the edge of science. In addition, Commission officials, notably in DGs TREN and ENV, believe that if U.S. and EU methodologies are compatible, they will be on stronger

footing in the WTO. While complete harmonization is not necessary, information exchanges and efforts to develop compatible policies would be valuable as the U.S. and the EU will become the two largest biofuels markets.

¶4. (SBU) The Commission is looking to the U.S. for advice and collaboration in implementing GHG emissions requirements for biofuels under the Renewable Energy Directive. Paul Hodson, DG TREN's lead biofuels expert, will be visiting Washington on April 23. This is an opportunity for the U.S. to commence discussion with Commission officials to influence rulemaking and to limit methodological divergence between our respective GHG calculations. However, the Commission process is moving quickly, and U.S. influence will be greatest between now and September 2009, when drafting commences. USEU recognizes that the U.S. must engage cautiously at the moment, given uncertainties in our own rulemaking under EISA, but USEU recommends that Washington, through the interagency process, develop policy that allows U.S. technical experts to engage in more detail with EU interlocutors than is currently permitted given the state of EISA implementation rule-making. Failure to do so has a strong potential to result in larger methodological divergence between the U.S. and EU, with negative implications for international trade in biofuels.

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